THE HONOURABLE SRI JUSTICE N.V.RAMANA

W. P.No.22039 of 2006

Dated:26-10-2006

Between:

The Depot Manager, APSRTC, Palamaner, Chittoor District.

.....PETITIONER

AND

S.K.Subhani and another.

....RESPONDENTS

THE HON'BLE SRI JUSTICE N.V. RAMANA

W.P. No. 22039 of 2006

O R D E R:

Aggrieved by the award dated 19.04.2006, passed by the Industrial Tribunal-cum-Labour Court, Anantapur in I.D. No. 119 of 2002, modifying the order of removal into that of compulsory retirement from service with entitlement of all retirement benefits, the petitioner-Corporation filed the present writ petition.

2. Respondent No.1-workman was appointed as Driver in the petitioner Corporation. While so, on 10.10.1998, the bus driven by him, with an intoxicated condition, on the route Palamner-Hyderabad, met with an accident, by hitting a small bridge near the out gate of Gooti Bus Station. After conducting domestic enquiry, and after considering his explanation to the show cause notice of removal dated 25-03-1999 issued by the Corporation, he was removed from service by order dated 17.04.1999. Thereupon, he raised an industrial dispute in I.D. No.119 of 2002, and that the Labour Court, by award dated 19.04.2006, modified the order of removal into that of compulsory retirement with entitlement of all retirement benefits, as per Rules. Assailing the award of the

Labour Court, the petitioner-Corporation filed the present writ petition.

3. Learned Standing Counsel for the petitioner-Corporation contends that the Labour Court, having held that the charges are proved, ought not to have interfered with the punishment of removal. He further contended that there was no punishment of compulsory retirement in the service regulations of the Corporation. He, thus, prays to set aside the award of the Labour Court and allow the writ petition.

4. Heard the learned Standing Counsel for the petitioner-APSRTC and the learned counsel for respondent No.1-workman.

5. The parameters and scope of judicial review of this Court under Article 226 of the Constitution of India to issue a writ of certiorari are limited to – firstly to correct errors of jurisdiction when the inferior Court or Tribunal acts without jurisdiction or in excess or fails to exercise it, secondly correct errors of law apparent on the face of the record, and thirdly correct and interfere with the findings that are based on suspicion, conjectures or surmises or no reason. The law is well settled that this Court does not act as an appellate authority and reappraise the evidence while exercising certiorari jurisdiction. It is within these parameters, the impugned award of the Industrial Tribunal, is to be examined.

6. A perusal of the award of the Labour Court clearly reveals that there is no record to show that the charge sheet was sent to the workman by registered post or displayed on the notice board of

the petitioner-Depot. It also reveals that there is no record to show that the copy of the enquiry report was sent to the petitioner calling upon his objections/comments, but the petitioner-Corporation straight away issued show cause notice Ex.M.17 to the workman, and there was no fair play in conducting domestic enquiry. The Labour Court, after considering the said aspects, modified the order of removal to that of compulsory retirement from service with entitlement of all retirement benefits, and no exception can be taken thereto.

7. The Writ Petition is devoid of merit and the same is accordingly dismissed. No costs.

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N.V.RAMANA, J

Dated: 26.10.2006

sj/nsr